

**Bi-Monthly Call with the Florida Department of Environmental Protection
Wednesday, September 6, 2017**

Issue: EPA Budget – Predictions on a CR vs a budget? Any word on potential changes? What should FL anticipate from a financial standpoint?

Response: The House Appropriations Committee on July 11 approved a funding bill providing \$7.5 billion for EPA for FY 2018, a reduction of \$528 million below the FY 17 enacted level and \$1.9 billion above the Administration's request. We anticipate further congressional action when Congress returns from August recess, but can't speculate on prospects for a CR vs enacted budget.

STATE SUGGESTED TOPICS

404 DELEGATION

Issue: The Florida Department of Environmental Protection has notified EPA staff that it is exploring assumption of the CWA §404 program, with a tentative goal of assuming the program by the end of 2018.

Response: EPA staff are engaging FDEP staff and are committed to provide any needed assistance and support to FDEP in its efforts to assume the program. EPA also shared a regulatory cross-walk for FDEP to use as a tool for identifying which state statutes may require changes to meet assumption requirements.

Background: CWA §404(g) authorizes States, with the approval from the EPA, to assume the authority to administer the Section 404 permit and enforcement program in some, but not all, navigable waters and adjacent wetlands.

In order to receive EPA approval to assume the program, a State program must:

- Be consistent with and no less stringent than Section 404 and implementing regulations;
- Have equivalent scope of jurisdiction;
- Regulate at least the same activities;
- Provide for sufficient public notice and allow public participation;
- Ensure compliance with CWA Section 404(b)(1) Guidelines;
- Ensure adequate enforcement authority;
- Submit certification from their Attorney General that the State laws provide adequate authority to carry out the described program.
- Have a Memorandum of Agreement (MOA) in place with the Corps of Engineers, which among other things describes which waters are assumable;

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- Have a MOA in place with the EPA that among other things describes EPA's oversight.

The approval decision for assumption is made by the RA, with concurrence from the Office of Water, the Office of Enforcement and Compliance and the Office of General Counsel.

In 1993 FDEP had seriously considered assumption. An action taken by the State legislature regarding the scope of jurisdiction of wetlands prevented the State from having a package that could be approved by the EPA.

The Assumable Waters Subcommittee, comprised of 22 states and the Corps of Engineers and convened under the [[HYPERLINK "https://www.epa.gov/faca/naccept"](https://www.epa.gov/faca/naccept)] and issued a report in May 2017. The report included recommendations by the majority (except the Corps) that EPA clarify, through rulemaking or guidance, which waters a state assumes permitting responsibility for under an approved [[HYPERLINK "https://www.epa.gov/cwa-404/section-404-permit-program"](https://www.epa.gov/cwa-404/section-404-permit-program)]. The EPA has not yet acted upon these recommendations.

To date, New Jersey and Michigan are the only States that have assumed the 404 program. Typically, the exploration of assumption by a State takes several years, and many states use a State Programmatic General Permit in lieu of assumption.

Current Status/Next Steps: FDEP has informally engaged EPA regarding its interest in assumption including during the June 2017 EPA-State Commissioners meeting, a meeting with Ken Wagener on 7/13/2017 and during teleconferences with Region 4 staff during August 2017. EPA staff answered questions and offered to provide any needed assistance during the teleconferences.

FDEP has not yet announced to the public that it is seeking assumption, but stated that their goal is to assume the program by the end of Governor Scott's term (i.e., by the end of 2018).

FDEP relayed that Ken Wagener offered that EPA could use a "SWAT Team" to assist with their efforts.

Staff with the Jacksonville District of the Corps of Engineers have shared with Region 4 staff the status of their discussions with FDEP. Colonel Kirk has directed staff to work with FDEP regarding what support the State may need in their effort to develop an assumption package.

The Corps is in the process of delineating waters that it believes are not assumable (e.g., waters subject to Section 10 of the Rivers and Harbors Act, other Traditional Navigable Waters). This process is not expected to be complete until sometime during 2018.

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Region 4 and Office of Water staff briefed senior management with OW, OGC, and OECA on 8/25/2017 and provided an overview of the 404 assumption process and requirements and the status of Florida's exploration of assumption.

Region 4 and Office of Water staff are tentatively planning a trip to Tallahassee to meet with FDEP staff in September to discuss the assumption requirements and the most productive way to proceed.

HUMAN HEALTH CRITERIA

Issue: Following the outcomes of the State of Florida administrative hearings and challenges, and after the submittal of the human health criteria package to the EPA for approval, the Agency will review and approve or disapprove the package in accordance with the applicable regulations, policies (including tribal consultation), guidance and Agency's process.

Response: Region 4 and Headquarters (HQ) have been actively involved in reviewing and commenting on the proposals FDEP have put forward. Additionally, HQ was an active participant on a peer review panel, and the Agency reviewed FDEP's last technical support document explaining the rationale behind their human health criteria and had no comments. We will continue to work cooperatively and expeditiously with DEP as the process moves forward.

Background: The Florida Department of Environmental Protection (FDEP) has updated their human health criteria and has used a probabilistic approach to develop these criteria. The probabilistic approach is a common statistical method used to estimate the odds of various outcomes based on known factors (e.g., mean and variability). For water quality standards development, it takes into account a range of values for factors (body weight, drinking water intake, etc.) that affect exposure, instead of using discrete values for these factors. This represents the first time a state has used a probabilistic methodology for water quality criteria development.

The State also made the policy decision to evaluate carcinogenic risk on a range from a 10^{-6} risk level to 10^{-4} for various percentiles of the population, which resulted in less stringent criteria for some parameters and more stringent criteria for others.

Region 4 and Headquarters (HQ) have been actively involved in reviewing and commenting on each proposal FDEP has put forward. Additionally, HQ was an active participant on a peer review panel. The EPA reviewed FDEP's last technical support document explaining the rationale behind their human health criteria and had no comments.

The EPA has received correspondence from David Ludder on behalf of the Florida Clean Water Network that questions whether or not the State process complied with 40 CFR Part 25 public

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participation requirements. Many other commenters raised more general concerns about the amount of notice provided by the state before its public hearing.

The Seminole Tribe of Florida, the City of Miami, Martin County and the Florida Pulp and Paper Association (FLP&PA) filed administrative challenges to the regulation in Florida. The Administrative Law Judge ruled that these challenges were not timely filed under the Florida Administrative Procedures Act and all cases were dismissed. The City of Miami, the Florida Pulp and Paper Association and the Seminole Tribe of Florida appealed this ruling in two separate state District Courts of Appeals. FLP&PA prevailed in their case and the court remanded the case back to the ALJ for a hearing on the merits, although FDEP may appeal to the State Supreme Court. Oral arguments in the other case will be heard in September.

Congressional inquiries: The EPA has received numerous letters/calls of interest from the Florida congressional delegation.

Current Status/Next Steps:

- In May 2017, EPA signed a response to a 2009 citizen petition requesting that the Agency promulgate human health criteria in the State of Florida. EPA denied the petition in light of Florida's significant progress in developing and adopting revised human health criteria that will be submitted to EPA in the near future. An unreasonable delay suit related to the petition has since been dismissed as moot.
- Following the outcomes of the State of Florida administrative hearings and challenges, and after the submittal of the human health criteria package to the EPA for approval, the Agency will review and approve or disapprove the package in accordance with the applicable regulations, policies (including tribal consultation), guidance and Agency's process.

EPA TRIGGER POLICY FOR SUPERFUND CLEANUP

Issue: The State of Florida and EPA have different risk thresholds which trigger Superfund cleanups. As a result of difference, there is a conflict between the National Trigger for remedial action versus the State's interpretation of the Risk Based Corrective Action (RBCA) policy.

Response: EPA Region 4 Superfund consistently works with Florida to implement the 10^{-4} (1 in 10,000) threshold for "unacceptable risk" before the federal government can be triggered into remedial action at a Superfund site. However, once triggered into action, EPA Superfund has the enforcement discretion to utilize Florida's RBCA standards for site cleanup since it falls within the Superfund risk range of 10^{-6} (1 in a million) to 10^{-4} (1 in 10,000).

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Background:

- The State of Florida has a policy in place that triggers its State cleanup at a risk level of 10^{-6} (1 in a million). However, EPA Superfund establishes unacceptable risk at 10^{-4} (1 in 10,000), which corresponds to its trigger for remedial action. As a result of this variance, there is a conflict between the National Trigger for remedial action versus the State's interpretation of the RBCA policy.
- Per OSWER, "Role of Baseline Risk Assessment in Superfund Remedy Selection Decisions," EPA generally uses the results of its baseline risk assessment to establish unacceptable risk (a basis or trigger) for taking a remedial action. Generally, remedial action under CERCLA is warranted when the baseline risk assessment shows a cumulative site risk to an individual exceeds EPA's cancer risk threshold of 10^{-4} lifetime excess cancer risk. Chemical-specific standards that define acceptable risk levels, such as MCL's, are also used to establish a threshold of unacceptable risk or to determine whether remedial actions are warranted. In the alternative, if the baseline risk assessment indicates that there is no unacceptable risk to human health and the environment, generally no remedial action is required.

Current Status:

- Once remedial action under Section 104 (Site Access and Sampling Authority) or 106 (Cleanup Authority for Imminent and Substantial Endangerment) is determined to be warranted (triggered), the remedial action must (1) assure protection of human health and the environment; and (2) attain ARARs, unless a waiver is invoked. EPA generally considers ARARS to be standards that define a protective chemical-specific level, such as MCL's and AWQC, as well State-promulgated standards that are more stringent than comparable federal chemical-specific requirements. When no chemical-specific ARAR is available, EPA also uses its risk assessment to establish site-specific cleanup standards for contaminants at protective levels within the Superfund risk range (10^{-6} to 10^{-4}).

MOA FOR FEDERAL UNDERGROUND STORAGE TANK (UST) PROGRAM

Issue: Florida may be concerned about a delay in the issuance of the UST MOA.

Response: Region 4 has been in early discussions with FDEP, and have produced a draft MOA that meets the required criteria for both agencies. However, internal discussions within R4, OECA, OUST and the other regions as to the content of a Non-SPA (state program approval) MOA has led to a delay in the issuance.

A briefing of upper management needs to be scheduled before the Regional Administrator can approve the document.

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Background: On February 15, 2012, the Office of Inspector General (“OIG”) issued a report titled *“Controls Over State Underground Storage Tank Inspection Programs in EPA Regions Generally Effective.”* The OIG reviewed state program approval (“SPA”) documents by which regions have approved states to administer and enforce an individual state program in lieu of a federal program - if those state programs are at least as stringent as the federal program. The OIG report concluded that all states determine compliance with UST regulations through compliance inspections, and determined that regions generally have management controls necessary to verify the quality of state UST inspections, either through the UST grant programs or as a result of state program approval, and did not find any major deficiencies in the administration of the state UST inspection programs. However, the OIG report recommended that MOAs between the regions and the state were necessary to “reflect changes resulting from the EPA report and address oversight of municipalities conducting inspections.” In response to the OIG report the Office of Solid Waste and Emergency Response (“OSWER”) clarified to the OIG that all states, with and without SPA, have primary responsibility for implementing UST programs within their jurisdictions.

FDEP’s ongoing implementation of the federal UST regulations under the original October 1989 MOA designating FDEP as the implementing agency, combined with R4’s annual review of cooperative agreement documents, achieves the goal that FDEP has the capabilities to carry out effective corrective actions and enforcement activities in the State of Florida. As recommended, the proposed MOA identifies FDEP as the implementing agency for purposes of implementation of the Federal UST program in the State of Florida. In the proposed MOA, the EPA reserves the right to act independently in any Subtitle I related implementation activities in the State of Florida, including inspections and enforcement. The FDEP and the EPA also agree to openly share information, subject to certain terms and conditions (with regard to business confidentiality and privileged information). Otherwise, the EPA responsibilities under the MOA are generally limited to reviewing cooperative agreement documents, and reviewing and evaluating the enforcement and remedial action policies of the State of Florida.

Current Status/ Next Steps: The proposed MOA restates FDEP’s role as the implementing agency for the federal UST regulations in the State of Florida, clarifies the roles and responsibilities of the FDEP, the EPA, and the municipalities of the State of Florida with respect to the federal UST program, and reflects changes resulting from the new federal UST regulations implemented on October 13, 2015.

OSWER encouraged regions to enter into updated MOAs using the templates provided, and indicated the intent for all states and territories to have updated MOAs in place no later than October 2018.

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SECOND CYCLE PERMIT QUALITY REVIEWS (PQR)

Issue: What is the status/timeline of the PQR process?

Response: The EPA, Region 4 office of Water Protection Division, NPDES Permitting and Enforcement Branch, NPDES Permitting Section plans to conduct a site visit to the Florida Department of Environmental Protection (FDEP) Tallahassee office starting February 26 to March 2, 2018, to review selected NPDES permit files as part of the second cycle FY18-FY23, Permit Quality Review (PQR) process

Background: As part of the PQR process, EPA will review approximately 14 NPDES permits that are currently active and contain core topic areas, and national and regional topic areas. The permit files EPA reviews may also include at least two general permits for stormwater practices in the state.

The core topic areas include a review of:

- permit applications,
- rationales,
- how technology and/or water quality based effluent limits were established, and the administrative process.

The national topic areas for this second round of PQRs include a review of:

- Small MS4s,
- Nutrient limits/considerations for discharges to impaired waters, and
- evaluating permit limits for food processing facilities (Pretreatment topic).

The regional topic areas are state-specific and for Florida the Region selected:

- FDEP's process for permitting Reuse facilities ("purple pipe" value) and [inevitable] treated excess wastewater flow discharges to waters of the state and,
- UV disinfection criteria.

For each topic area, program strengths are noted as well as any critical findings and/or recommendations that will strengthen the state's permitting program. During the 2012-2017 PQR cycle, EPA referred to action items that address deficiencies or noncompliance with respect to federal regulations as "Category 1". EPA is now referring to these action items going forward, as Essential. In addition, previous PQR reports identified recommendations to strengthen the state's program as either "Category 2" or "Category 3" action items. EPA is consolidating these two categories of action items into a single category: Recommended.

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Current Status/Next Steps:

The EPA, Region 4 office of Water Protection Division, NPDES Permitting and Enforcement Branch, NPDES Permitting Section plans to conduct a site visit to the Florida Department of Environmental Protection (FDEP) Tallahassee office starting February 26 to March 2, 2018, to review selected NPDES permit files as part of the second cycle FY18-FY23, Permit Quality Review (PQR) process.

EPA Headquarters tracks all [previous] Category 1 findings under ACS measure WQ-11. And will continue to track the newly identified "Essential" items moving forward.

EFFLUENT LIMITATION GUIDELINE (ELG) PERMITTING

Issue: Florida would like an update on the rule for Effluent Limitations Guidelines (ELGs) for the Steam Electric Industry.

Response: EPA requested, and was later granted, a stay of the litigation challenging the Rule until August 12, 2017, while the Agency reconsidered the rule. On August 11, 2017, the EPA Administrator responded to petitioners of the Agency's intent to reconsider new rulemaking for parts of the rule.

On August 14, 2017, EPA filed a motion in the U.S. Court of Appeals for the Fifth Circuit that it seeks to have challenges to those portions of the 2015 rule severed and held in abeyance pending completion of further rulemaking.

Background: On November 3, 2015, EPA issued a final rule amending the effluent limitations guidelines and standards for the steam electric power generating industry. The amendments addressed: fly ash transport water, bottom ash transport water, flue gas mercury control wastewater, flue gas desulfurization wastewater (FGD), gasification wastewater, and combustion residual leachate.

EPA received seven petitions for judicial review of the Rule. The Utility Water Act Group (UWAG) submitted a petition for reconsideration of the Rule to the Administrator and requested that EPA suspend the Rule's approaching deadlines. This petition also points to new data (collected by the American Electric Power Institute) claiming that plants burning subbituminous and bituminous coal cannot comply with the revised FGD wastewater through use of EPA's model technology. The Small Business Administration Office of Advocacy also petitioned the EPA for reconsideration of the Rule. These petitions are separate from the litigation and asked for administrative review of the rule by the new administration. On December 8, 2015, the United States Judicial Panel on Multi-District Litigation issued an order consolidating all of the petitions in the U.S. Court of Appeals for the Fifth Circuit. EPA subsequently stayed specific compliance dates in the rule.

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Current Status/Next Steps: EPA expects regulatory status quo with respect to waste streams subject to the rule's new, and more stringent, effluent guideline limitations, while the litigation is pending and the reconsideration is underway.

States that have already issued permits with the stayed compliance dates have the option of modifying these permits. 40 CFR § 122.62 provides the process and potential causes to modify an issued permit, and states should ensure that any modification is consistent with this regulation.

For permits that have not been issued or for modified permits, states should include permit limits consistent with the effective, non-stayed effluent guideline limits.

EPA will conduct a rulemaking to potentially revise the Best Available Technology Economically Achievable (BAT) effluent limitations and Pretreatment Standards for Existing Sources in the 2015 rule that apply to bottom ash transport water and flue gas desulfurization wastewater.

The EPA will provide notice and an opportunity for public comment on any proposed revisions to 2015 rule.

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OTHER SIGNIFICANT FLORIDA ISSUES

EVERGLADES RESTORATION

Issue: The EPA works in partnership with the public, the state of Florida, the Seminole and Miccosukee Indian Tribes, the agricultural community, local governments, federal agencies and Florida universities to ensure the protection, restoration and long-term ecological and economic sustainability of the Everglades. This requires finding consensus among urban, agricultural and environmental protection interests while providing clean water, water supply and flood control for 10 million residents. Statutory authorities for the EPA's Everglades activities include the Clean Water Act (CWA), the National Environmental Policy Act and the Water Resources Development Act of 2000.

Background: The EPA's mandates, defined by federal law include: approving Florida and Tribal water quality standards and pollutant limits; approving Florida's decisions to list waters as impaired; reviewing Florida's CWA National Pollutant Discharge Elimination System surface water discharge permits; approving the CWA annual Florida funding for nonpoint source pollution controls; reviewing the CWA section 404 dredge and fill permit applications and decisions by the U.S. Army Corps of Engineers (Corps); commenting on environmental assessments and environmental impact statements for projects with significant federal actions.

The EPA provides CWA grants to the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Indians to protect drinking water supplies, protect their natural areas, and develop water quality standards to protect human health and the environment.

The EPA works with the State of Florida and provides technical support on the 2012 Water Quality Restoration Strategies agreement to construct \$880 million of water quality improvement facilities to achieve the nutrient (phosphorus) levels needed to restore the Everglades. EPA and Florida meet biannually to track progress and identify concerns.

The EPA provides programmatic support for several joint projects, between Florida and the Corps, that provide for the water quantity, quality, timing and distribution needs of the Everglades and its watershed, including Lake Okeechobee, the Caloosahatchee and St. Lucie estuaries, and Tribal areas in the Western Everglades.

The EPA's Everglades Ecosystem Assessment program has monitored the health of the Everglades for 20 years. The information obtained and shared by this program is used by the State of Florida, the Miccosukee Tribe, the agricultural community, federal agencies and many others to document environmental improvements from Everglades restoration activities and efforts to control mercury and phosphorus contamination.

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Congressional Inquiry: Representatives Mario Diaz-Balart, Debbie Wasserman Shultz and Thomas Rooney are all members of the Florida Congressional Everglades Caucus (Diaz-Balart is co-chair) and support funding for Everglades restoration efforts.

Current Status/Next Steps: The EPA will continue to collaborate, provide technical and regulatory assistance to support the Everglades restoration efforts.

LAKE OKEECHOBEE WATER QUALITY

Issue: Algal Blooms in Lake Okeechobee and Receiving Water Bodies

Background: During the summer of 2017, some algal blooms have been identified in Lake Okeechobee; however, lower water levels in the lake have not required discharges to the estuaries as was required in 2016. In addition, EPA liaison staff located in the Corps Jacksonville District office, actively participates on multiple teams for the Comprehensive Everglades Restoration Plan (CERP), Lake Okeechobee Restoration Project that is currently in the planning phase. The objectives of this project include: increasing water storage capacity in the watershed, improving the quantity and timing of discharges to the St. Lucie and Caloosahatchee estuaries, restoring wetlands, and improving water supply.

During the summer of 2016, South Florida experienced extensive algal blooms that affected Lake Okeechobee, the St. Lucie River and Estuary, and the Caloosahatchee River and Estuary. Nutrients and warm temperatures contributed to the algal blooms. An unusual wet winter season last year resulted in very high water levels at Lake Okeechobee that required the Army Corps of Engineers to discharge high amounts of lake water to both estuaries.

South Florida coastal residents were concerned about potential health issues, loss of recreation, loss of tourism revenue, beach closings, and economic losses. On June 29, 2016, Governor Rick Scott declared a state of emergency for St. Lucie, Martin, Lee and Palm Beach Counties.

FDEP requested and received information from EPA Region 4 on Harmful Algal Bloom removal technologies, and maintained close contact with Region 4 regarding other potential sources of EPA support. EPA offered resources and sampling support to FDEP during the 2016 algal bloom but FDEP declined the offer of assistance.

In 2001, EPA approved the Lake Okeechobee Total Maximum Daily Load (TMDL) for Total Phosphorus. The purpose of the TMDL is to achieve an in-lake phosphorus concentration target that will restore the lake's designated uses and meet applicable water quality standards.

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In 2008, EPA finalized the TMDL for Biochemical Oxygen Demand, Dissolved Oxygen, and Nutrients, for the tributaries for Lake Okeechobee. In 2008, EPA approved the Nutrient and Dissolved Oxygen TMDL for the St. Lucie River and Estuary, which considered nutrient contributions from Lake Okeechobee. In 2009, EPA approved the Nutrient TMDL for the Caloosahatchee Estuary, which considered nutrient contributions from Lake Okeechobee.

In 2000, Congress approved the CERP as a framework for projects and operational changes needed in the Central and Southern Florida watersheds to restore, preserve, and protect the South Florida Ecosystem, while providing sufficient water to meet South Florida's needs.

Since 2014, EPA has provided approximately \$1.8 Million in funding through the CWA 319 grant program for four projects to address non-point source pollution that impact Lake Okeechobee.

Current Status/Next Steps: EPA will continue to work and assist other federal, state, and local partners in the Everglades restoration efforts that includes Lake Okeechobee.

TURKEY POINT POWER PLANT, MIAMI, FLORIDA

Issue: Continued Migration of hypersaline plume towards Municipal Drinking Water Wells

Background: Florida Power and Light operates the Turkey Point power plant facility just south of Miami, FL. A large Cooling Canal System (CCS) has been used since 1973 to dissipate heat generated by the two nuclear reactors at the site (Units 3 & 4). The CCS is located adjacent to Biscayne Bay, and is not lined. Groundwater within the vicinity of the CCS is saline, and due to increased evaporation rates of the heated canal waters, salt content becomes concentrated within the canal system. Solution density increases as salt concentration increases, therefore, canal waters tend to migrate vertically downward into the underlying aquifer due to density driven flow. The presence of the CCS has increased the westward extent of local saltwater intrusion and resulted in a hypersaline (salt concentrations above average ocean salinity) plume below and east/west of the property boundary at depth. Sampling results have also indicated impacts to nearby surface and Biscayne Bay related water bodies.

The westward extent of saltwater intrusion (fresh/saltwater interface) at this locality is 4-5 miles. Continued migration of the fresh/saltwater interface threatens municipal drinking water facilities and industrial complexes west of the CCS. Due to diffusion and regional salt water intrusion (natural and exacerbated by other industrial/municipal influences), it is difficult to determine the specific CCS influence on the position of the fresh/saltwater interface. For instance, the very act of pumping the municipal wells in question is partly responsible for "pulling" the fresh/saltwater interface westward. The westward extent of the above background (20 pCi/L) tritium plume roughly approximates the fresh/saltwater interface (4-5

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mi). Tritium concentrations in the groundwater plume generated from the CCS are below the MCL and do not represent levels associated with public health concern. As such, no action for addressing the western extent of saltwater intrusion or tritium plume have been taken or are currently planned to be taken.

The hypersaline portion of the plume occurs nearer to the CCS, and it is easily concluded that these waters did originate from the CCS. The consent agreement with Miami Dade County is focused on addressing the hypersaline portion of the plume.

Current Status/Next Steps: Per the consent agreement, FP&L has developed a numerical model capable of simulating variable density (salt/fresh water) flow dynamics between the Bay, CCS, and Biscayne aquifer. The model, which was reviewed by EPA, Miami Dade agencies, and private consultants, was used to evaluate various remediation scenarios. Based on the simulation results, the parties involved have agreed to move forward with a plan to extract hypersaline groundwater through wells along the western edge of the CCS to retract the hypersaline plume back to FP&L's property line. Miami Dade county will monitor the performance of this system once it is implemented.

CCS impacts on Biscayne Bay proper are difficult to characterize, as the system is extremely dynamic (waves, tides, etc.) and mixing/diffusion within the extremely large volume would quickly make contaminant concentrations undetectable above background. It is reasonable to postulate that impacts have occurred, however, based on contaminant detections in near-CCS and Bay-related surface water bodies (tidal waters). FP&L has suggested that the Bay-related detections occurred due to remnant, Bay-connected canals that were improperly filled, and has proposed plans for addressing these problems. The effectiveness of these actions will be monitored.

SULFUR DIOXIDE (SO₂)

Issue: The State of Florida has concerns about potential nonattainment areas in Citrus and Polk/Hillsborough Counties evaluated as part of the 2010 SO₂ 1-hour standard "Round 3" designations process.

Background:

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- On June 2, 2010, The EPA strengthened the primary National Ambient Air Quality Standard (NAAQS) for SO₂; specifically, the Agency revised the primary SO₂ standard by establishing a new 1-hour standard at a level of 75 parts per billion.
- EPA is conducting designations for the SO₂ standard in four separate rounds. To date, the Agency has completed Rounds 1(August 5, 2013) and 2(July 12, 2016 and December 13, 2016).
- As part of Round 3, the state indicated that Citrus County has a monitor with measured concentrations above the standard; Florida also provided modeling which indicates that portions of Polk/Hillsborough Counties are also above the standard.
- Florida has recommended the entire state be classified as attainment or unclassifiable.

Current Status/Next Steps:

- In the 120-day letter to the Governor released August 22, 2017, EPA invited Florida to review the available information and further discuss the issues with EPA for Polk/Hillsborough and Citrus Counties where current analyses indicate a modification to the recommended designations.
- Under consent decree, the EPA must complete an additional round of designations (Round 3) by December 31, 2017.